



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N073; FXES11120800000–145–FF08EVEN00]

Low-Effect Habitat Conservation Plan; Scotts Valley Multi-Agency Regional Intertie Project, Santa Cruz County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from James Mueller, District Manager of the San Lorenzo Valley Water District, for a 5-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered Mount Hermon June Beetle and Zayante band-winged grasshopper, and the federally threatened California red-legged frog, which is likely to occur incidental to the construction and maintenance of two water pump stations and an intertie pipeline connection on three parcels in central Santa Cruz County,

California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan (HCP) for the three species for the Scotts Valley Multi-Agency Regional Intertie Project in Santa Cruz County, California.

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may download a copy of the habitat conservation plan, draft environmental action Statement and low-effect screening form, and related documents on the Internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Acting Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Chad J. Mitcham, Fish and Wildlife Biologist, by U.S. mail at the above address, or by telephone at (805) 644–1766.

SUPPLEMENTARY INFORMATION: We have received an application from James Mueller, District Manager of the San Lorenzo Valley Water District, for a 5-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The application addresses the potential for “take” of the federally endangered Mount Hermon June Beetle (*Polyphylla barbata*) and Zayante band-winged grasshopper (*Trimerotropis infantilis*),

and the federally threatened California red-legged frog (*Rana draytonii*). This take is likely to occur incidental to the construction and maintenance of two water pump stations and an intertie water pipeline connection on three parcels in central Santa Cruz County, California. The applicant would implement a conservation program to minimize and mitigate project activities that are likely to result in take of the three species as described in their HCP. We invite comments from the public on the application package, which includes a low-effect HCP for the three species for the Scotts Valley Multi-Agency Regional Intertie Project in Santa Cruz County, California. This proposed action has been determined to be eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA; 43 U.S.C. 4321 *et seq.*).

Background

The U.S. Fish and Wildlife Service (Service) listed the Mount Hermon June beetle and Zayante band-winged grasshopper as endangered on January 24, 1997 (62 FR 3616), and listed the California red-legged frog as threatened on May 23, 1996 (61 FR 25813). Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “Incidental Take” as take that is not the purpose of carrying out of an otherwise lawful activity. Regulations governing ITPs for threatened and endangered species are provided

at 50 CFR 17.32 and 17.22, respectively. Issuance of an ITP must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an ITP. Plant species may be included on a permit in recognition of the conservation benefits provided them under a HCP. All species, including plants, covered by the ITP receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)). In addition to meeting other specific criteria, actions undertaken through implementation of the HCP must not jeopardize the continued existence of federally listed animal or plant species.

Applicant’s Proposal

James Mueller (hereafter, the applicant) has submitted a low-effect HCP in support of his application for an incidental take permit (ITP) to address take of the Mount Hermon June beetle, Zayante band-winged grasshopper, and the California red-legged frog that is likely to occur as the result of direct impacts to up to 0.226 acres (ac) (9,831 square feet (sf)) of degraded Sandhills habitat that may be occupied by the species. Take would be associated with the construction, operation, and maintenance of two pump stations and a pipeline intertie connection on three existing parcels legally described as Assessor Parcel Numbers 022–231–20, 066–221–06, and 061–371–16 and located in and around the City of Scotts Valley in central Santa Cruz County, California. The applicant is requesting a permit for take of Mount Hermon June beetle, Zayante band-winged grasshopper, and the California red-legged frog that would result from “covered

activities” that include the construction, operation, and maintenance of two pump stations and a pipeline intertie connection.

The applicant proposes to minimize and mitigate take of the Mount Hermon June beetle, Zayante band-winged grasshopper, and California red-legged frog associated with the covered activities by fully implementing the HCP.

The following measures will be implemented:

(1) Avoid impacts to these species by locating the new pipelines underneath existing roads;

(2) Avoid construction during the flight seasons of the Mount Hermon June beetle and Zayante band-winged grasshopper, if practicable;

(3) Cover exposed soils with erosion control fabric to prevent both species from burrowing into exposed soil at the construction site if soil-disturbing activities occur between May and October;

(4) Engage the services of a qualified entomologist to relocate any larvae of the Mount Hermon June beetle unearthed during construction activities to suitable habitat outside of the impact area;

(5) Use light bulbs that are certified not to attract nocturnally active insects, in order to minimize disruption of Mount Hermon June beetle breeding behavior during the adult flight season (i.e., if outdoor night lighting is to be included on the new pump stations);

(6) Secure a Service-approved herpetologist to capture any California red-legged frogs that disperse into project work areas and to relocate them to suitable habitat outside of the impact area;

(7) Mitigate both temporary and permanent impacts to Mount Hermon June beetle and Zayante band-winged grasshopper habitat through off-site mitigation at a ratio of 1:1, through the acquisition of 0.226 ac (9,831 sf) of conservation credits from the Zayante Sandhills Conservation Bank; and

(8) Fund up to \$336,479.00, as needed, to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: “No Action” and “Project Redesign.” Under the “No Action” alternative, an ITP for the Scotts Valley Multi-Agency Intertie Project (project) would not be issued. The project would not be built, and the purchase of 9,831 sf of conservation credits would not be provided to effect recovery actions for the Mount Hermon June beetle and Zayante band-winged grasshopper in high-quality Sandhills habitat located at the Zayante Sandhills Conservation Bank. Because the proposed action results in a net benefit for the Mount Hermon June beetle and Zayante band-winged grasshopper, and the No Action Alternative does not meet the applicant’s need, the No Action Alternative has been rejected.

Under the “Project Redesign” alternative, the project would be redesigned to avoid or further reduce take of Mount Hermon June beetle, Zayante band-winged grasshopper, and California red-legged frog. However, smaller pump stations cannot satisfy the San Lorenzo Valley Water District’s need to regulate water flow in the new pipelines, and thus will not meet the applicant’s need. Therefore, no reduced take can actually be realized. For this reason, the alternate design alternative has also been rejected.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, and California red-legged frog, and that the HCP qualifies to be processed as low effect as defined by our Habitat Conservation Planning Handbook (November 1996). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) project impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), as provided by the Department of Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

We will evaluate the permit application, including the HCP and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We

will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, and California red-legged frog, and that the plan qualifies as a low-effect HCP as defined by our 1996 Habitat Conservation Planning Handbook. We will evaluate the permit application, including the HCP and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permits. If the requirements are met, we will issue an ITP to the applicant for the incidental take of Mount Hermon June beetle, Zayante band-winged grasshopper, and California red-legged frog. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: April 25, 2014.

**Stephen P. Henry, Field Supervisor,
Ventura Fish and Wildlife Office,
Ventura, California.**

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